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(i) Matching programs in which SBA has participated;

(ii) Matching agreements proposed that were disapproved by the Board;

(iii) Any changes in membership or structure of the Board in the preceding year;

(iv) The reasons for any waiver of the requirement described below for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) Any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) Any other information required by OMB to be included in such report;

(5) Serve as clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(6) Provide interpretation and guidance to SBA offices and personnel on the requirements for matching programs;

(7) Review Agency recordkeeping and disposal policies and practices for matching programs to assure compliance with the Privacy Act; and

(8) May review and report on any SBA matching activities that are not matching programs.

(g) *Cost-benefit analysis.* Except as provided in paragraphs (e)(2) and (3) of this section, the Data Integrity Board shall not approve any written agreement for a matching program unless SBA has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. The Board may waive these requirements if it determines, in writing, and in accordance with OMB guidelines, that a cost-benefit analysis is not required. Such an analysis also shall not be required prior to the initial approval of a written agreement for a matching program that is specifically required by statute.

(h) *Disapproval of matching agreements.* If a matching agreement is disapproved by the Data Integrity Board, any party to such agreement may appeal to OMB. Timely notice of the filing of such an appeal shall be provided by OMB to the Committee on Governmental Affairs of the Senate and the

Committee on Government Operations of the House of Representatives.

(1) OMB may approve a matching agreement despite the disapproval of the Data Integrity Board if OMB determines that:

(i) The matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii) There is adequate evidence that the matching agreement will be cost-effective; and

(iii) The matching program is in the public interest.

(2) The decision of OMB to approve a matching agreement shall not take effect until 30 days after it is reported to the committees described in paragraph (h) of this section.

(3) If the Data Integrity Board and the OMB disapprove a matching program proposed by the Inspector General, the Inspector General may report the disapproval to the Administrator and to the Congress.

§ 102.41 Other provisions.

(a) *Personnel records.* All SBA personnel records and files, as prescribed by OPM, shall be maintained in such a way that the privacy of all individuals concerned is protected in accordance with regulations of OPM (5 CFR parts 293 and 297).

(b) *Mailing lists.* The SBA will not sell or rent an individual's name or address. This provision shall not be construed to require the withholding of names or addresses otherwise permitted to be made public.

(c) *Changes in systems.* The SBA shall provide adequate advance notice to Congress and OMB of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(d) *Medical records.* Medical records shall be disclosed to the individual to whom they pertain. SBA may, however, transmit such information to a medical doctor named by the requesting individual. In regard to medical

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records in personnel files, see also 5 CFR 297.205.

PART 103—STANDARDS FOR CONDUCTING BUSINESS WITH SBA

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AUTHORITY: Secs. 5, 13, 72 Stat. 385, 394 (15 U.S.C. 634, 642).

SOURCE: 61 FR 2681, Jan. 29, 1996, unless otherwise noted.

§ 103.1 Key definitions.

(a) *Agent* means an authorized representative, including an attorney, accountant, consultant, packager, lender service provider, or any other person representing an applicant or participant by conducting business with SBA.

(b) The term *conduct business with SBA* means:

(1) Preparing or submitting on behalf of an applicant an application for financial assistance of any kind, assistance from the Investment Division of SBA, or assistance in procurement and technical matters;

(2) Preparing or processing on behalf of a lender or a participant in any of SBA's programs an application for federal financial assistance;

(3) Participating with or communicating in any way with officers or employees of SBA on an applicant's, participant's, or lender's behalf;

(4) Acting as a lender service provider; and

(5) Such other activity as SBA reasonably shall determine.

(c) *Applicant* means any person, firm, concern, corporation, partnership, cooperative or other business enterprise applying for any type of assistance from SBA.

(d) *Lender Service Provider* means an Agent who carries out lender functions in originating, disbursing, servicing, or liquidating a specific SBA business loan or loan portfolio for compensation from the lender. SBA determines

whether or not one is a "Lender Service Provider" on a loan-by-loan basis.

(e) *Packager* means an Agent who is employed and compensated by an Applicant or lender to prepare the Applicant's application for financial assistance from SBA. SBA determines whether or not one is a "Packager" on a loan-by-loan basis.

(f) *Referral Agent* means a person or entity who identifies and refers an Applicant to a lender or a lender to an Applicant. The Referral Agent may be employed and compensated by either an Applicant or a lender.

(g) *Participant* means a person or entity that is participating in any of the financial, investment, or business development programs authorized by the Small Business Act or Small Business Investment Act of 1958.

§ 103.2 Who may conduct business with SBA?

(a) If you are an Applicant, a Participant, a partner of an Applicant or Participant partnership, or serve as an officer of an Applicant, Participant corporation, or limited liability company, you may conduct business with SBA without a representative.

(b) If you are an Agent, you may conduct business with SBA on behalf of an Applicant, Participant or lender, unless representation is otherwise prohibited by law or the regulations in this part or any other part in this chapter. For example, persons debarred under the SBA or Government-wide debarment regulations may not conduct business with SBA. SBA may request that any Agent supply written evidence of his or her authority to act on behalf of an Applicant, Participant, or lender as a condition of revealing any information about the Applicant's, Participant's, or lender's current or prior dealings with SBA.

§ 103.3 May SBA suspend or revoke an Agent's privilege?

The Administrator of SBA or designee may, for good cause, suspend or revoke the privilege of any Agent to conduct business with SBA. Part 134 of this chapter states the procedures for appealing the decision to suspend or revoke the privilege. The suspension or revocation remains in effect during the